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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/077,337	05/27/1998	JAY PAUL DRUMMOND	D1077	5900

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EXAMINER	
CAMPEN, KELLY SCAGGS	
ART UNIT	**PAPER NUMBER**
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 31

Application Number: 09/077,337
Filing Date: May 27, 1998
Appellant(s): DRUMMOND ET AL.

Ralph E. Jocke
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9-19-03.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences that will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The appellant's statement in the brief that certain claims do not stand or fall together is not agreed with because the claims as listed by the appellant are not separately patentable.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

LA Times Staff and Wire Reports "Trade-It-Yourself Bank Machines make a debut, Securities: Citibank is first to offer full-scale brokerage services at ATM machines. Option comes to California next month." Los Angeles Times, October 6, 1994, home edition, business section, page 1, pt D, Col. 5.

Leon, Marc. "TP-monitor vendors spin Web features" INFOWORLD, July 1, 1996, page 37.

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 31, 35, 38, 41, 44-45, and 48-54 rejected under 35 U.S.C. 103. This rejection is set forth in prior Office Action, Paper No. 28.

(11) Response to Argument

Applicant's arguments would lead one to believe that browser pages such as Internet Explorer do not possess the instructions to affect the printing of a page at a connecting printing device.

In response to Applicant's arguments concerning whether the ATM in the LA Times article is able to provide account access, transfer funds, and dispense statements, these features are what an ATM inherently *does*.

In response to Applicant's argument against Official Notice being taken, to adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include the stating why the noticed fact is not considered to be common knowledge or well-known in the art (See 37 CFR 1.111(b). See also *Chevenard,* 139 F.2d at 713, 60 USPQ at 241). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice is inadequate. The common

knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. The traversal was inadequate because the applicant' failed to specifically point out the supposed errors in the examiner's action including why the noticed fact is not considered to be well-known in the art.

In response to applicant's argument based upon the age of the references, contentions that the reference patents are old are not impressive absent a showing that the art tried and failed to solve the same problem notwithstanding its presumed knowledge of the references. See *In re Wright*, 569 F.2d 1124, 193 USPQ 332 (CCPA 1977).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Kelly Scaggs Campen
December 8, 2003

Conferees
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